

N.D.A.G. Letter to Larson (April 14, 1988)

April 14, 1988

Mr. Stuart A. Larson
Traill County State's Attorney
P.O. Box 188
Hillsboro, ND 58045

Dear Mr. Larson:

Thank you for your letter of March 21, 1988, wherein you inquire whether a county auditor may change the assessed valuation as a clerical error under the authority of N.D.C.C. § 57-14-01(04) where a survey shows a different acreage than in the auditor's records.

N.D.C.C. § 57-14-01(4) provides that the county auditor shall correct the assessment books if "[t]he assessor has made a clerical error in valuing real property, provided the assessor furnishes the county auditor with a written statement describing the nature of the error which statement the county auditor shall keep on file."

In construing a statute, consideration must be given to the ordinary sense in which words are used. N.D.C.C. 1-02-02. Harding v. City of Dickinson, 33 N.W.2d 626 (N.D. 1948).

A clerical error is understood to be a mistake in copying or writing rather than an error made during the exercise of judgment or in the pursuance of a determination. 14 C.J.S. Clerical at 1202 (1939).

Thus, an error that was committed during a survey to calculate acreage would not be a mere "clerical error."

However, if a recent survey establishes that certain property had been omitted from taxation, the auditor should correct the assessment books under N.D.C.C. § 57-14-01(1).

If you wish to discuss this matter further, please do not hesitate to contact me.

Sincerely,

Nicholas J. Spaeth

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